

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion into Competition  
for Local Exchange Service.

Rulemaking 95-04-043  
(Filed April 26, 1995)

Order Instituting Investigation on the Commission's  
Own Motion into Competition  
for Local Exchange Service.

Investigation 95-04-044  
(Filed April 26, 1995)  
**(FCC Triennial Review  
Nine-Month Phase)**

**ASSIGNED COMMISSIONER'S RULING SETTING  
ASIDE SUBMISSION AND SOLICITING COMMENTS  
ON BATCH HOT CUT PROCESS ADOPTED BY NEW YORK  
PUBLIC SERVICE COMMISSION**

This Assigned Commissioner's Ruling (ACR) sets aside submission in the batch hot cut phase of this proceeding and withdraws the Proposed Decision of ALJ Pulsifer (mailed July 28, 2004). In addition, the ACR takes official notice of the August 25, 2004 decision of the New York Public Service Commission (NY PSC) accepting Verizon's batch hot cut process and setting permanent rates for that process as well as Verizon's "basic" and "project/large job" hot cut processes.<sup>1</sup> Finally, we establish a cycle of comments on the *New York Batch Hot*

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<sup>1</sup> See Order Setting Permanent Hot Cut Rates, *Proceeding on Motion of the Commission to Examine the Process and Related Costs of Performing Loop Migrations on a More Streamlined*

*Cut Order* to determine its significance in this current proceeding, both for Verizon California and for SBC. In particular, we seek to determine whether we should establish a cycle of comments or hold evidentiary hearings on the process adopted in the *New York Batch Hot Cut Order*.

## **BACKGROUND**

On July 28, 2004, the Commission mailed the Proposed Decision of ALJ Pulsifer in this proceeding. Parties to the proceeding filed comments on August 17, 2004, and reply comments on August 23, 2004.

As noted above, on August 25, 2004, *two days after* the filing of reply comments in this proceeding, the NY PSC adopted the *New York Batch Hot Cut Order*.

On September 13, 2004, Verizon California filed a request that the Commission take official notice of the *New York Batch Hot Cut Order*. Verizon notes that the NY PSC accepted the batch hot cut process proposed by Verizon and:

- Specifically found that Verizon's hot cut processes were scaleable and could meet the increased demand for hot cuts that may result from the elimination of UNE-P.
- Concluded that the hot cut process cannot be automated through the use of Automatic Distribution Frames or Electronic Loop Provisioning.

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(*e.g., Bulk*) Basis, No. 02-C-1425 (N.Y. Publ. Serv. Comm'n Aug. 25, 2004) ("New York Batch Hot Cut Order").

- Found that hot cut rates should not be based on the assumption that Automatic Distribution Frames or Electronic Loop Provisioning can be deployed.<sup>2</sup>

Verizon states that the batch hot cut process accepted by the NY PSC is identical to the process it now proposes for California and throughout the entire Verizon national footprint. Verizon argues that the Commission should take official notice of – and be guided by – the *New York Batch Hot Cut Order* if this proceeding moves forward.

## DISCUSSION

The *New York Batch Hot Cut Order* adopts a process that appears to meet many of the objectives of the Telecommunications Act and appears to include many attractive features beyond those developed in the record of this proceeding for a batch hot cut process in California. Moreover, the *New York Batch Hot Cut Order* adopts a Batch Hot Cut Process that resolves many of the issues that remain open in the Proposed Decision of ALJ Pulsifer, and which were deferred to extensive workshops.

Verizon's process, for example, appears to address several issues that remain unresolved, such as the process for transitioning UNE-P customers with DSL service to UNE-L without disrupting the DSL service. Unfortunately, because the proposals offered in this proceeding by Verizon were submitted so long ago, they were incomplete and not informed by the extensive workshops that took place as part of the NY process.

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<sup>2</sup> Verizon California, *Request of Verizon California, Inc. (U 1002 C) for Official Notice of the New York Public Service Commission's Order Concerning Batch Hot Cuts*, September 13, 2004.

From a practical perspective, we believe that California has adequate time to consider this development and that now is the best time to undertake such a consideration. In particular, with USTA II vacating much of the FCC's Triennial Review Order, which initiated this proceeding, it is not likely that the FCC will eliminate the availability of UNE-P at this time. Thus, it makes little sense for this Commission to adopt a batch hot cut process for Verizon based on an old record that resolves only a few of the issues before this Commission, particularly because we do not know when and where the FCC will require mass market switching to be unbundled. Moreover, since the process adopted in NY was the result of a voluminous record and extensive CLEC collaboration, we find that this Commission should take official notice of it and consider it before embarking on a process that would likely replicate the extensive consultative process undertaken in NY. We see no reason to re-invent the wheel just because it was not invented here.

Moreover, almost all participants in this proceeding have recognized the need for the compatibility of Batch Hot Cut Processes across jurisdictions, rather than in the multiplicity of incompatible processes.

In summary, since the process adopted in the *New York Batch Hot Cut Order* has so many attractive features and because there is a public and competitive interest for a process that is uniform over multiple political jurisdictions and perhaps over multiple companies, we find that it is in the public interest to set aside submission in this phase of this proceeding and for this Commission to consider the following questions:

1. Is the process adopted in the *New York Batch Hot Cut Order* appropriate for Verizon California?
2. Is the process adopted in the *New York Batch Hot Cut Order* for Verizon appropriate for SBC-California?

3. What is the most appropriate procedure for bring this process before the California Commission? In particular, should the Commission hold hearings on the process described in the *New York Batch Hot Cut Order*?

Parties may present comments on any of these three questions should file and serve opening comments by November 22, 2004. Reply comments are due on December 13, 2004.

A subsequent ruling will determine the next steps in this proceeding.

**IT IS RULED** that:

1. Submission of the FCC's Triennial Review, Nine Month Phase, concerning the Batch Hot Cut Process, is set aside.
2. The Proposed Decision of ALJ Pulsifer (mailed July 28, 2004) is hereby withdrawn from the Commission's agenda.
3. The Commission takes official notice of the *New York Batch Hot Cut Order* in this proceeding.
4. Parties may file comments and replies to the questions identified in this proceeding consistent with the timetable adopted herein.

Dated October 27, 2004 at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached *Assigned Commissioner Withdrawing Proposed Decision and Soliciting Comments on the Batch Hot Cut Process Adopted by the New York Public Service Commission* on all parties of record in this proceeding or their attorneys of record.

Dated October 27, 2004, at San Francisco, California.

/s/ CHRISTOPHER MEI

Christopher Mei

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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